



Legal Update

February 27, 2013

Searching behind a radio panel in a vehicle is permissible in certain circumstances.

***Commonwealth v. Haynes* SJC, No. 11-P-1947, (2013)**

Background:

On November 8, 2009, officers were on patrol in a high crime area when they stopped a vehicle for traffic violations. The officer asked the driver, Ishmal Haynes (hereinafter referred to as “Haynes”) to produce his license and registration. Haynes reached for the glove compartment and “opened and shut it without reaching inside,” or taking anything out. While officers spoke with Haynes, he “leaned quickly with his right hand toward the floor, sat up and put his right hand under his thigh.” At this point, the officers were concerned Haynes may be concealing a weapon so they ordered him to exit the vehicle. The officers searched the interior of the vehicle and “noticed that the plastic panel around the radio on the front console was slightly ajar.” Based on the officers’ training and experience, they were aware that guns and illegal drugs can be hidden behind vehicle panels. The officers removed the panel around the radio and recovered a firearm. The officers arrested Haynes and charged him with unlawful possession of a firearm. Haynes filed a motion to suppress arguing that the officers lacked reasonable suspicion to search the interior of the vehicle and that they exceeded the scope of the search when the officers looked behind the radio panel. Additionally, Haynes alleged that the exit order was invalid too. The district judge held that the stop of the vehicle was justified along with the exit order but found that the officers exceeded the scope of the search when they removed the radio panel inside of the vehicle. The Commonwealth appealed the decision.

Conclusion:

The SJC held that the officers were justified in stopping Hayne's vehicle due to traffic violations. Additionally the court held that the exit order was valid because there was a concern for officer safety. Some of the factors that the court considered were the location of the stop coupled with Haynes' unusual movements in response to the officers' request for his license and registration. Based on all of these factors, the court concluded the stop and exit order were valid. The second issue that the court analyzed was whether the scope of the search was permissible. The court held that "the search of the automobile was within the scope of a permissible protective search because the proximity of the radio panel to the defendant upon his release would allow him easy access to it." See *Commonwealth v Pena*, 69 Mass. App. Ct. 713, 714 (2007) Similar to *Pena*, the court held that officers are not expected to ignore their specialized training when there are concerns for their safety and the safety of the public. The officer in *Pena* noticed the rear seat cushion was not properly seated which signaled to him that something could be hidden under the cushion. In this case, the officer noticed the panel surrounding the radio was "slightly ajar." Since the officer had prior experience recovering guns and drugs from hidden spaces within vehicles, he suspected that Haynes could have hidden something behind the radio panel.

Commentary:

The Haynes case highlights the significance of looking at the totality of the circumstances when evaluating whether an exit order and search of a vehicle are valid. In this case, the court stated that the area of the stop along with Haynes' actions and the officers' training and experience justified the scope of the search. As the court articulated, officers are not expected to ignore their specialized training. While Haynes described his actions for reaching for a tissue as "odd yet benign," the court found that based on the circumstances, the officers were justified in ordering Haynes out of the vehicle and searching the interior of the vehicle including behind the radio panel.